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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/737,235	12/16/2003	Jody Lynn Hoying	9456	6351
27752	7590	11/25/2008	EXAMINER	
THE PROCTER & GAMBLE COMPANY			JOHNSON, JENNA LEIGH	
Global Legal Department - IP			ART UNIT	PAPER NUMBER
Sycamore Building - 4th Floor				1794
299 East Sixth Street				
CINCINNATI, OH 45202				
			MAIL DATE	DELIVERY MODE
			11/25/2008	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/737,235	HOYING, JODY LYNN	
	<b>Examiner</b>	<b>Art Unit</b>	
	Jenna-Leigh Johnson	1794	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 12 September 2008.

2a) This action is **FINAL**.                            2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1 and 3-21 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1 and 3-21 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.

4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.

5) Notice of Informal Patent Application

6) Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on September 12, 2008 has been entered.

### ***Response to Amendment***

2. The Amendment submitted on September 12, 2008, has been entered. Claim 2 has been cancelled. Claims 1 and 12 - 15 have been amended and claims 16 - 21 have been added. Therefore, the pending claims are 1 and 3 - 21.

3. The 35 USC 102 rejections over Provost et al. (2004/0157036) is withdrawn since Provost et al. fails to teach that the tufted composite is placed between a back sheet and a top sheet layer. Further, Provost et al. fails to teach the fibers in the tufted regions have a smaller diameter than the fibers in first fibrous layer.

4. The 35 USC 102 and 35 USC 103 rejections over Sorimachi et al. (5,508,080) is withdrawn since Sorimachi et al. fails to teach that the tufted composite is placed between a back sheet and a top sheet layer. Further, Sorimachi et al. fails to teach the fibers in the tufted regions have a smaller diameter than the fibers in first fibrous layer.

5. The 35 USC 103 rejections over Hansson (6,048,600) is withdrawn since Hansson fails to teach that the tufted composite is placed between a back sheet and a top sheet layer. Further, Hansson fails to teach the fibers in the tufted regions have a smaller diameter than the fibers in first fibrous layer.

6. The 35 USC 102 rejection to claims 1, 4, 5, 8, 12, 13, and 15 over Mende (5,180,620) is withdrawn since Mende fails to teach that the tufted composite is placed between a back sheet and a top sheet layer.

***Claim Rejections - 35 USC § 102***

7. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

8. Claims 14 and 17 are rejected under 35 U.S.C. 102(b) as being anticipated by Mende (5,180,620).

The features of Mende have been set forth in the previous Office Action. Mende discloses a tufted composite web for use as a topsheet layer in an absorbent product. As discussed in Mended, the tufted regions are formed by applying the meltblown fibers to an apertured plate wherein the opposite of the plate has a negative pressure which pulls the web through the aperture to form the projections (column 7 and 8). The filaments are applied while they are still molten and the pressure difference draws the portion of the web to the opposite side of the plate, forming the projections and elongating the fibers in the projections as well. Thus, the fibers in the projections would be stretched to some degree by the pressure difference and have a smaller average diameter than the fibers in the base web which were not elongated to form the projections. The amount of the elongation or stretch in the individual filaments will depend on different factors including the viscosity of the filaments, the pressure difference, and the temperature of the filaments (column 9). Thus, claims 14 and 17 are anticipated.

***Double Patenting***

9. Claims 1 and 3 – 21 stand provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 3, 4, 11 - 16, and 21 - 26 of copending Application No. 10/737,306 for the reasons of record.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

10. Claims 1 and 3 – 21 stand rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1 – 21 of U.S. patent 7,172,801 (formerly Application No. 10/737,307) for the reasons of record.

11. Claims 1 and 3 – 21 stand provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1 – 20 of U.S. patent 7,172,801 (formerly US application 10/737,430) for the reasons of record.

12. Claims 1 and 3 – 21 stand provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1 – 20 and 44 of copending Application No. 10/737,640 for the reasons of record.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

13. Claims 1 and 3 – 21 stand provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1 – 25 of copending Application No. 11/156,020 for the reasons of record.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

14. Claims 1 and 3 – 21 stand provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 22 - 30 of copending Application No. 11/158,165 since both claims are drawn to a two-layered tufted product that includes tufts which are extend into and through the upper layer.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

15. Claims 1 and 3 – 21 stand provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1 - 21 of copending Application No. 11/650,821 since

both claims are drawn to a two-layered tufted product that includes tufts which are extend into and through the upper layer.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented. It is noted that the some of the claims have been indicated as allowable. Thus, the rejection will no longer be provisional once the patent has been issued.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jenna-Leigh Johnson whose telephone number is (571) 272-1472. The examiner can normally be reached on Monday - Friday (8:00 - 5:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rena Dye can be reached on (571) 272-3186. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

jlj  
November 24, 2008

/Jenna-Leigh Johnson/  
Primary Examiner, Art Unit 1794